communicating by email these days, the Postal Service is delivering more letters than at any time in our nation's history. During the next decade, however, we know that will change.

Electronic communication is expected to accelerate even faster than it has in the last five years. Some of what Americans send by mail today will be sent online. According to the General Accounting Office [GAO], that will include many bills and payments. In its study, U.S. Postal Service: Challenges to Sustaining Performance Improvements Remain Formidable on the Brink of the 21st Century, dated October 21, 1999, the GAO reports that the Postal Service's core business—letter mail—will decline substantially. As a result, the revenue the Postal Service collects from delivering First-Class letters also will decline.

While the Internet will eventually reduce the amount of letter mail rural letter carriers deliver, the Internet will present some new opportunities for delivering parcels. Rural letter carriers have for decades delivered the packages we order from catalogs, and now they deliver dozens of parcels every week that were ordered online. For some rural and suburban Americans the Postal Service still remains the only delivery service of choice. Today, the Postal Service has about 33 percent of the parcel business. However, if the Postal Service is as successful as it hopes in attracting more parcels, that could create a problem for rural carriers. Most items ordered by mail are shipped in boxes that, once filled with packing materials, can be bulky—so bulky, in fact, that many rural letter carriers already see the need for larger delivery vehicles.

In exchange for using their own vehicles, rural letter carriers are reimbursed for their vehicle expense by the Postal Service through the Equipment Maintenance Allowance [EMA].

Congress recognized this unique situation in tax legislation as far back as 1988. That year Congress intended to exempt EMA from taxation through a specific provision for rural letter carriers in the Technical and Miscellaneous Revenue Act of 1988 [TAMRA]. This provision allowed rural mail carriers to compute their vehicle expense deduction based on 150 percent of the standard mileage rate for their business mileage use. Congress passed this law because using a personal vehicle to deliver the U.S. Mail is not typical vehicle use. Also, these vehicles have little resale value because of their high mileage and most are outfitted for right-handed driving.

As an alternative, rural letter carrier taxpayers could elect to use the actual expense method (business portion of actual operation and maintenance of the vehicle, plus depreciation). If the EMA exceeded the actual vehicle expense deductions, the excess was subject to tax. If EMA fell short of the actual vehicle expenses, a deduction was allowed only to the extent that the sum of the shortfall and all other miscellaneous itemized deductions exceeded two percent of the taxpayer's adjusted gross income.

The Taxpayers Relief Act [TRA] of 1997 further simplified the taxation of rural letter carriers. TRA provides that the EMA reimbursement is not reported as taxable income. That simplified taxes for approximately 120,000 taxpayers, but the provision eliminated the option of filing the actual expense method for employee business vehicle expenses. The lack of this option, combined with the effect the Internet will have on mail delivery, specifically on rural letter carriers and their vehicles, is a problem we must address.

Expecting its carriers to deliver more packages because of the Internet, the Postal Service already is encouraging rural letter carriers to purchase larger right-hand drive vehicles, such as sports utility vehicles (SUV). Large SUVs can carry more parcels, but also are much more expensive to operate than traditional vehicles—especially with today's higher gasoline prices. So without the ability to use the actual expense method and depreciation, rural carriers must use their pay to cover vehicle expenses. Additionally, the Postal Service has placed 11,000 postal vehicles on rural routes, which means those carriers receive no EMA.

All these changes combined have created a situation contrary to the historical congressional intent of using reimbursement to fund the government service of delivering mail, and also has created an inequitable tax situation for rural letter carriers. If actual business expenses exceed the EMA, a deduction for those expenses should be allowed. I believe we must correct this inequity, and so I am introducing a bill that would reinstate the deduction for a rural letter carrier to claim the actual cost of the business use of a vehicle in excess of the EMA reimbursement as a miscellaneous itemized deduction.

In the next few years, more and more Americans will use the Internet to get their news and information, and perhaps one day to receive and pay their bills. But mail and parcel delivery by the United States Postal Service will remain a necessity for all Americans—especially those in rural and suburban parts of the nation. Therefore, I encourage my colleagues to support this bill and ensure fair taxation for rural letter carriers.

CONFERENCE ON THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 2000

Mr. DINGELL. Mr. Speaker, as Ranking Member of the Committee on Commerce, and senior House Democrat conferee on the conference committee to resolve differences between S. 761, the Electronic Signatures in Global and National Commerce Act, and the amendments of the House to the bill, I rise to clarify a matter involving the legislative history of this legislation. My remarks are an extension of remarks that I made during House consideration of the conference report to accompany S. 761 (June 14, 2000, CONGRESSIONAL RECORD at H4357–H4359). Mr. MARKEY, the other House Democrat conferee on this matter, has authorized me to indicate that he concurs in these remarks.

Rule XXII, clause 7(d) of the Rules of the House provide that each conference report must be accompanied by a joint explanatory statement prepared jointly by the managers on the part of the House and the managers on the part of the Senate, and further that the joint explanatory statement shall be sufficiently detailed and explicit to inform the House of the effects of the report on the matters committed to conference. This is pivotal in guiding affected parties and the courts in interpreting the laws that we enact.

Late in the conference negotiations, we reluctantly agreed to a request from the staff of the chairman of the conference committee that we expedite filing and consideration of the conference agreement by not extending the negotiations to include drafting and reaching agreement on a statement of managers. Accordingly, the conference report did not and does not include the required joint explanatory statement of managers. It only contains the agreed-upon legislative language. The rule by which the conference report was considered by the House waived any point of order regarding this deficiency.

Given this chain of events and what we thought was a binding gentlemen's agreement, I was dismayed to discover that material had been inserted in both the House and Senate debate (June 14, 2000, CONGRESSIONAL RECORD at H4352–H4357 as an extension of Representative BLILEY's floor remarks and June 16, 2000, CONGRESSIONAL RECORD at S5283–S5288 as an extension of Senator ABRAHAM's remarks) in the fortnat of ajoint statement of managers. Our Senate Democratic colleagues also have expressed concerns with this language (June 15, 2000, CONGRESSIONAL RECORD at S5216, 3rd column, last para. and carry over on S. 5217 remarks of Senator WYDEN and at S5220, I st column, 3rd para. remarks of Senator LEAHY).

While I respect the right of the distinguished Chairman of the conference committee and others to have an opinion on such matters and to express them in the RECORD, I want to clarify that this material is not the statement of managers for the conference agreement, notwithstanding its format. Both Mr. BLILEY and Senator ABRAHAM indicated in their remarks that the explanatory document had been prepared by them and expressed their views, and it should be taken as such. In several instances, their guidance does not reflect the intent or understanding of all the members of the conference. A number of their statements are simply not correct, and some of their views conflict with the very words of the statute. There is insufficient time to consult with the other conferees and prepare a joint point-by-point discussion of each of the statements the Chairman and Senator ABRAHAM made that we disagree with. However, without prejudice, there are a few things that I would like to have more clearly reflected in the record.

While agencies should seek to take advantage of the benefits that electronic records offer, they also have the obligation to see that their programs are properly carried out and that they will be able to enforce the law and protect the public, to help avoid waste, fraud and abuse in those programs, and to see that the taxpayer funds in their care are not squandered. In some circumstances, the bill gives agencies authority to set standards or formats; in doing so, they may decide in some cases not to adopt an electronic process at all for filings if they determine (consistent with the Government Paperwork Elimination Act), after careful consideration, that this alternative is not practicable.

For example, section 104(a) preserves the authority of federal regulatory agencies, self-regulatory organizations, and state regulatory agencies to set standards and formats for the

filing of records with such agencies or organizations. The authority contained in section 104(a) is not subject to the limitations set forth in section 104(b) or other limitations contained in the Act. The preservation of agency authority contained in section 104(a) is subject only to the requirements of the Government Paperwork Elimination Act.

Agencies that seek to promote electronic filings may set standards and formats for such filings as they deem appropriate. Standards and formats for electronic filings may be appropriate, for example, to ensure the integrity of electronic filings from security breaches by computer hackers. Likewise, agencies may set standards and formats for filings to promote uniform filing systems that will be accessible to regulators and the public alike, and to advance the agencies' statutory mission.

Section 104(b) allows agencies to adopt regulations, orders and guidance to assist in implementing the legislation, subject to standards set forth in section 104(b). Section 104(b) contains criteria for agencies to use, but because of the vast numbers of transactions that agencies regulate, agencies must necessarily have appropriate discretion to apply those criteria to determine when to require performance standards or, in some limited circumstances (in a manner consistent with the this bill and the Government Paperwork Elimination Act), paper records.

Having recognized in Section 101(d) the importance of accuracy and accessibility in electronic records, Section 104(b)(3)(A) recognizes the ability of federal regulatory agencies to provide for such standards. Section 104(b)(3)(A) gives federal regulatory agencies the flexibility to specify performance standards to assure accuracy, record integrity, and accessibility of records

Although agencies should seek to implement the goals of the statute, the bill also provides federal and state regulatory agencies the necessary latitude to prevent waste, fraud and abuse, and to enforce the law and to protect the public, by interpreting section 101 in the appropriate way for their programs and activities, subject to any applicable criteria in the bill. It is my understanding that courts reviewing any such agency interpretations or applications of such criteria would apply the same deference that they give to other agency action. It is not my understanding that the conference report would demand unusual scrutiny beyond applying the criteria set forth in the statute.

Consumers are given many protections in this legislation, and among those protections is the continued right to receive paper (or other non-electronic) notices on certain important occasions. For, example, Section 103(b)(2)(A) leaves intact laws that require paper notification of the cancellation or termination of utility services. This includes—but is not limited to—water, heat and power. Other utilities, such as telephone service (a utility critical to safety in modem times), would also be protected. Obviously, Internet service would also be included in this exemption, to avoid the anomalous situation of a consumer trying to obtain, understand and respond to a disconnection notice that is available only through the very medium that has been disconnected.

Consumer consent to electronic transactions is, in general, a critical safeguard that is maintained in this bill. The Chairman was absolutely correct when he began his statement by saying, ''. . . under E-Sign, engaging in electronic transactions is purely voluntary. No one will be forced into using or accepting an electronic signature or record. Consumers that do not want to participate in electronic commerce will not be forced or duped into doing so.'' However, the conferees recognized that there may be some specific instances in which stringent requirements for verifying consent might not actually be needed to protect consumers. Therefore, under the bill, agencies have a very limited authority to exempt certain transactions from the consent verification provisions. In those instances where it is truly necessary to eliminate a consent verification requirement—in part because there is no other way to eliminate a substantial burden on electronic commerce—agencies may sometimes be able to do so. However, even when eliminating a consent verification requirement is the only way to avoid a substantial burden on electronic commerce, an agency may do so only when there will not be any material risk of harm to consumers.

I would also like to make another point that is very important to keep in mind when trying to understand the impact of this legislation. Of course, the bill does not force Federal and State government agencies to use or accept electronic signatures and electronic records in contracts to which they are parties. Therefore, the limitations in parts of the conference reports such as sections 102(a), 104(b)(2) and 104(c)(1) on the ability of Federal and State agencies to interpret section 101 do not apply to contracts in which such agencies are parties. Just like private commercial parties, government agencies have the freedom to choose their methods of contracting, subject to other applicable laws. The conference report does not force parties to a contract to use any particular method in forming and carrying out the contract, and allows them to decide for themselves what specific methods to use. When the government is a party to a contract, it naturally has the same rights. The restrictions in the sections that I cited do not apply in that circumstance and do not diminish those rights.

Also, I note that this legislation was consciously drafted to avoid displacing the carefully-crafted provisions of the Government Paperwork Elimination Act, Pub. L. No. 105–277 sections 1701–1710 (1998), or GPEA. That Act set a timetable for Federal agencies to make available electronic alternatives to traditional paperwork processes, and set standards for agencies to apply in determining whether and how to adopt such alternatives. To the extent that the two bills do overlap, this bill is crafted to allow agencies the flexibility to comply with the existing standards set forth in GPEA.

Finally, I would like to raise an important law-enforcement issue. Senator ABRAHAM's ''guidance'' states that ''if a customer enters into an electronic contract which was capable of being retained or reproduced, but the customer chooses to use a device such as a Palm Pilot or cellular phone that does not have a printer or a disk drive allowing the customer to make a copy of the contract at that particular time, this section is not invoked.'' (June 16, 2000, CONGRESSIONAL RECORD at S5284, 3rd column, last para.)

Section 101(e) addresses more than the application of the statute of frauds to contracts entered into electronically. Section 101(e) provides that the legal effect of an electronic record may be denied if it is not in a form capable of being retained and accurately reproduced. As a threshold matter, businesses create the electronic systems being used by the consumer. Those designing and implementing these systems are obligated to ensure that electronic records are accurate, and in a form capable of being retained. Notably, the bill also applies to businesses that are obligated to make and keep accurate electronic records for examination by government regulators (and, if necessary, for enforcement action). The fact that a consumer uses particular technology that does not immediately produce an electronic record does not excuse the other party's regulatory obligation to have accurate and accessible records or otherwise exempt the transaction from this provision. To suggest otherwise, flies in the face of the plain meaning of the statute and opens up a gaping loophole for fraudsters to take advantage of.

Conferees should be given adequate time to review and reach agreement on the statement of managers required under the Rules. This short-cut has proven to be a dangerous and unacceptable alternative.

VETERANS TRAVEL FAIRNESS ACT

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 2000

Mr. STUPAK. Mr. Speaker, a major issue of concern for veterans and their families in rural areas all around this nation is the long distances they must travel to receive medical care at the VA hospitals. The current VA reimbursement rate for privately owned motor vehicle use is unreasonable and presents a real hardship for many rural veterans, some of whom must travel hundreds of miles to receive care. The issue is especially important now, because of the high price of gasoline.

As many of us know, the cost of driving and maintaining a motor vehicle is significant. The travel reimbursement rate developed for Federal employees reflects these costs. This rate is the established Internal Revenue Service rate, the same, fair rate that we are allowed to claim on our income taxes. Currently, the Veterans Affairs travel reimbursement rate is only 11 cents per mile, compared to a rate of 32.5 cents per mile used by Federal employees and the IRS.

Why should a veteran driving 100 miles across the state for medical care be reimbursed only $11.00, when a Federal employee gets $32.50 for going the same distance to a meeting in his own car? In fact, Department of Veterans Affairs employees themselves get reimbursed at the higher rate, while the clients they serve are expected to travel at a fraction of the cost. It simply does not make sense for the VA to use a different and stingy method to determine reimbursement rates for vets that are only one-third what is considered reasonable for Federal employees.

I am introducing this bill to amend Title 38, United States Code, to provide that the rate of reimbursement for motor vehicle travel regulated under the beneficiary travel program of